

Regular Meeting of the Mayor and Commissioners
Town of Newport
October 21, 2021

Pledge of Allegiance.

Mayor Walker took some time to review the rules of public comment. Three minute limit with no interjection when someone else is commenting. You cannot jump up and add to what is being said. He wants people to be able to talk – that is what council is there for – but council will be tighter on what is happening. He announced the meeting was in compliance with the Delaware Open Meeting Act. He asked where announcements were posted. There are not five places to post, but agendas are posted at the municipal building, online and at the old town hall. Advertising in the paper when necessary.

Attendance: Mayor Franklin Walker, Commissioner Michael Capriglione, Commissioner Michele MacDonald, Commissioner Joseph Stagliano, Police Chief Mark Wohner, Town Manager Wendy King, Solicitor N. Christopher Griffiths. Vice Mayor Carol Ann Gretz was absent.

Mayor Walker said that he has discussed the matter with town manager and with the vice mayor and explained that you can miss three consecutive meetings or four in the course of a year. This evening is Vice Mayor Gretz's fourth miss. At the end of the meeting, if she does not walk through the door before adjournment, she will no longer be a commissioner. That will create an opening for a vice mayor and check signer. Mayor Walker asked if she resigned. Town Manager King said no but she had contact with her through text and verified her attendance with her, but the charter removes her – no resignation needed. Mayor Walker said it was suggested that it be put out in the newsletter to advise of the opening and that council could inquire as to what the interested parties would bring to the table, but in the meantime, there are enough votes to conduct business.

Minutes from August 19, 2021, and September 16, 2021. Mayor Walker did not see anything from the August meeting misstated and would entertain a motion to approve. Commissioner MacDonald made a motion to approve and Commissioner Stagliano and Commissioner Capriglione seconded at the same time. All ayes. Mayor Walker asked if anyone had questions or needed clarification about the September meeting minutes. Commissioner MacDonald said she was not clear on a documented exchange between her and Mayor Walker and said that she never said what was written. It was clarified that it was Mayor Walker who made the comment. He was just trying to say that she is welcome to contact him as well and that when he is speaking to the commissioners, he says they are not having meetings, but it is difficult for things regarding involved decisions when you can meet only once a month. He has said that he was elected as a commissioner and selected as mayor and is only one of five votes. He talks to the commissioners to see if they are in the same ballpark regarding ideas. Commissioner MacDonald has no problem with them speaking, but believes the discussions should be happening in a public meeting and if you are bringing up something new, it should be discussed about how it will be handled – motion, resolution, etc. There should not already be a resolution done and a pre-made decision made. Mayor Walker reiterated the information about the meetings prior to the election and swearing in and how the former mayor, vice mayor and Tim Chatburn were not part of their meetings either. They discussed what their goals were, what they had in common, etc. He

understands her point of view, but she was an opponent in the election. After April's swearing in, he gave the list to the town manager for distribution. He is glad to say that he met with the town manager and police chief and it was informative. There will be meetings going forward prior to the posting of the agenda to ensure the managers are productive and more effective for the town. The resolution was put up last month and there are no more "suggestions" "recommendations". The list is gone.

Commissioner MacDonald was relieved because when she received her copy of the list, she said that many of those items were personnel items and not for mayor and council. It's not for mayor and council to determine what the police chief should be doing. Mayor Walker disagrees with that interpretation based on how many times he has read the charter. Commissioner MacDonald says that is fine but "from time to time" should not be every meeting for the last seven months and council should not be interfering. His interpretation is that people who own property and live in the town own the town. They have an election once a year to determine their representatives who in turn speak for them. The town manager works for mayor and commissioners and is the personnel director for the police chief, the officers and maintenance. He thinks from "time to time" relates to the amount of time passed by from meeting to meeting and that things can change monthly. He is not trying to put down what was done previously. He talked about the sewer pump estimate and how he evaluated it and determined what really needed to be done based on his experience in the industry and has passed it to the maintenance supervisor because he proved he could do it. There are new pumps and rebuilt floor and he would be wrong not to ask to look at a situation and offer input. He talked about the old town hall and the condition of the outside and yes, it will be restored. He does not intend to insult anyone, but where people would just hire a contractor, he rolls his sleeves up and digs in. He has a knowledge which is why he is involved. He asked the maintenance supervisor for a prioritized list of streets needing attention. Upon getting this information, he and Commissioner Stagliano drove around to see for themselves. That is how you learn about what it is to be a commissioner. He said the corner she pointed out for the ADA slopes on the sidewalks were looked at by the maintenance supervisor and himself and they determined the cause of the water buildup. The tree is pushing up the sidewalk, so the owner will need to replace the sidewalk and remove the tree. If the ramps were replaced today, in a year, the tree will have pushed it out again. That is the difference between seeing a problem and analyzing what the appropriate resolution would be. He does not tell Bob what to do. He said Bob was aware that he needed to keep it swept and clear. His interpretation is that council is elected to say that something will take priority over another because of the potential for someone to get hurt. He took his own street off the list, took a street that has never been paved off the list. It is the commissioners' job to prioritize. Wendy will write the check, Bob will arrange for bids. E. Ayre Street cannot be done until the drainage problem is resolved and as a result, estimates are coming. He thinks commissioners have an obligation to see what is going on in the town they represent. Commissioner MacDonald said she would like to go back to the section of the charter 3.08 Commissioner Prohibitions. She read some sections and referred to the hiring of a police officer. Mayor Walker asked when he told anyone they could not do something and he said he asked the police chief and town manager in front of everyone if they could hold off on hiring Officer Bell's replacement. Commissioner MacDonald said that Mayor Walker said there was a hiring freeze. He denied saying any such thing and that he asked about it and that he did not have that power. He went back to the events of April with the town manager borrowing from capital to make payroll as is done quite frequently and studying the budget and getting knowledge of when money comes in. He had asked to hold off on filling Officer Bell's position at \$83,000* a year to make up money in the budget. In the meeting with the police chief and town manager, Chief Wohner

asked if the 7th officer could be hired and Mayor Walker said he could not answer that and to give him a few days. It was approved and now there are applications in. All he was trying to do was to ensure “x” amount of dollars came in. Town Manager King said for clarification, Bell’s money was already in the budget and they did not nor should they have had to ask to replace him. Chief Wohner did not want to be in a position of hiring someone and then having council for whatever reason not approve the police budget and have to lay the person off. Commissioner MacDonald read the portion of the minutes that clarified Mayor Walker saying there was a hiring freeze. He wanted to be sure that no commissioner wanted to see the town in the red. Commissioner MacDonald said that the budget was always tight and that it was stated in the August meeting that the town should not be dependent on the police department for revenue and that there were no real sources of revenue and that offers were made to council for reach out to other municipalities for suggestions on how they were operating because maybe we do need to reach out to other towns. This is no different than how it has been. Covid is no one’s fault but it is still affecting the flow of money although it looked better last month. Court response bounced back last month as the DMV or Deljis pushed past due notices out.

Town Manager’s Report – Fall cleanup October 23, FY 2022 budget first reading is in November and presentation of ARPA projects. State of Delaware contracted with a independent law firm to offer to the municipalities to help them through the process of spending the ARPA funds and reporting and payment would be through a cost share between municipalities. The town’s share is a little less than \$2,400. Richey Elementary is having a trunk-or-treat (it was cancelled due to weather) on 10/29/2021, DE Kids Fund Operation Warm is 11/19. Recommendation of independent counsel interpretation of the town charter due to many months of disagreement among council members and among the mayor and managers. Audit is complete and will follow up to see if a presentation can be given. Reassessment of properties and a schedule of public virtual workshops. Brief discussion about the reassessment and notification to residents. Commissioner MacDonald asked about the \$2,400 and if we would get billed. This is an automatic draw that would come directly out of what we would have received in 2022, so there is no invoice. Commissioner Capriglione asked about the audit folders and only two hard copies were provided. An email can be sent. Mayor Walker clarified the amount we would be receiving through ARPA to be \$560,000 and money spent by 2024 or returned to the government. He would accept a motion to join collaboration with the attorney and write a check. It is already done and payment is automatically deducted from what the town will receive next year. Residents are not required to allow county reassessment employees in their homes. Maintenance supervisor submitted a list of reasons why he needs bucket truck. Notification came in that Dom’s Pizza is expanding and needs an extended liquor license and anyone having comment or objection can go to the hearing.

Police Chief’s Report: Monthly statistics for October, 2021. Onsite visit for state accreditation, Richey Truck or Treat on 10/29. He ordered a black Ford SUV to be delivered around the first week of December. That vehicle will replace the black and white marked Charger. Open position was posted and so far, 72 applications were received. Mayor Walker asked if the old car would be traded or sold. It will be placed on the NPD Facebook page and place it on the hill outside for closed bid.

Mayor Walker mentioned to Bob Harvey, Maintenance Supervisor, that he should consider selling the white pickup by springtime if it is needed for plowing.

Mayor Walker confirmed with Chief Wohner that the new vehicle would be marked. Yes, as it is replacing a marked vehicle, he will have it marked. He asked Patrolman Savino if it was him at 7-11 and asked if he was okay. He said he received a phone call from a resident who lives across the street and she was panicking. He called 911 and was happy to see so many units respond. He sees and watches and stats are decent and that council is not trying to balance the budget on fines and appreciates the efforts. Patrolman Ryan Jones recounted an event last month of the gun being pointed someone's face and within 7 hours, the person was found and found to be a convicted felon – a person prohibited from carrying a firearm. In another matter, \$22,000 worth of crystal meth was seized. That investigation is still ongoing. He appreciates council saying the officers are appreciated. They are out there making the arrests and said that the crystal meth is running through town, so they are keeping on top of that as well. Mayor Walker said that even though they can't give the officers the money, they can give thanks and acknowledged the work done on the 17 year-old that was shot. He prays that what was in Newark stays in Newark and what was in Wilmington stays in Wilmington. He said that his previous comments referencing the department's Facebook page were made from a legal standpoint – do disclaimers need to appear to advise the reader that the person in question is innocent until proven guilty. Chief Wohner checked into it and does not seem to think it is necessary so end of story. He advised the officers in the audience that council goes to the chief for the report, but they are welcome to speak.

Alderman's Report - \$58,236 for September, 2021. The only question Mayor Walker has is the amount of charges dismissed. Chief Wohner explained the charges could have been part of a plea agreement. Mayor Walker just wanted to be sure people were not just walking away.

Maintenance Department – Sewer pumps are in running order. Still more work to be done on pipes running out of the enclosure. Going to get signs for "after hours" alarms. Coordinate if number should be Bob's or 911. He said that all piping in the industrial park is 8-inch PVC. Mayor Walker's question was more who owns them? The town, county or private. These are not pressurized lines. From Air Liquide to James Street belongs to NCC. From Air Liquide to Active Crane is private, which pumps into the town's service. While it is the intention to try to have NCC take over the lift stations, if they do not, the new pumps leave us in better shape. There was discussion about the potential for power failures and getting prices for generators.

Code Enforcement – Working on 4 W. Highland, 107 W. Highland. Mayor Walker thanked maintenance for their part in 1600 E. Ayre Street cleanup. What maintenance is doing is make a big difference – clearing the storm drains prior to it raining is huge and he has not heard a complaint about water in months. Commissioner MacDonald commented that water and drainage is always an issue and nothing can be done about it and likes the idea of swales. The swales proposed are a temporary fix until the town can do roads. The federal money is helping. The old town hall will be restored. He would like to find a carpenter who makes wooden storm doors that will fit Justis Street and Augustine Street door frames that are period-appropriate. Commissioner MacDonald has two storm doors that she will measure. Solar-powered lights for the ends of the eaves should be looked into. There is no security cameras, so we should be looking into that also.

Solicitor's Report – Litigation matter with answer due on 10/28/2021, Business license ordinance, worked on seizures for Chief Wohner and general town matters with phone calls to the mayor and town

manager. Mayor Walker had a question about the ordinance and cases going to court. It was explained that the ordinance only applies to business licenses and went through a possible scenario. The appeal would be before council. Bob says that no one really gives him a hard time. He does think that when someone is renting out garages/warehouses, that they should be required to put up a sign for identification purposes. Mayor Walker said he had ideas, but it was not the right time to talk about them. Mayor and Council will need to discuss warehouses. Bob mentioned the business who was granted a variance to sell tires but is actually fixing cars. He should be sent a letter and invited back to council to discuss. More conversation about parking and Mayor Walker said he had an upcoming meeting with WILMAPCO and he had questions about the bike path and said that it was going down W. Ayre Street. Mayor Walker says the town needs their own traffic counter. Commissioner MacDonald asked if he received the quarterly WILMAPCO newsletter (Transporter) and that it shares the ongoing projects and was interesting.

Commissioners – Commissioner MacDonald noted that there are so many new residents and asked if “welcome” notification could be made. Mayor Walker said that he would note it and make contact by telling people about trash day, giving a card, etc. Commissioner MacDonald said that she gave the McGinty’s her copy of the newsletter. Commissioner Capriglione said that Middletown has a nice notification for new residents and they take advertisers. Mayor Walker told Bob that when he was riding around, he realized that he needed to speak to the people who were doing it right and not just the people who were doing wrong and to be the ambassador. Commissioner Capriglione advised that parking issues at the school at afternoon pickup. People are blocking driveways. He does not want signs up, just to have the school contacted. Chief Wohner advised that prior to covid, he was supposed to meet with the principal and the district security director to see about rerouting carline. The crossing guard did try to address it and the parent was not responsive. The crosswalk should be repainted. Commissioner Stagliano asked for “curb you dog” poop signs to be placed all around town – 7-11, Stonehurst. The apartments has a section that is fenced and a section that is not fenced. People tend to trespass. Wondering if the owner will seal. Chief Wohner advised that the former owner sold the property and had the complex put a fence up – she wanted to do it but could not because it was considered her front yard - but the complex owner would not close it off. Mayor Walker wondered how much drug activity was going on in that area and Chief Wohner assured that the officers are walking through looking for paraphernalia. Mayor Walker said that it could be incentive for the owner to act because if there are police officers walking around, they may lose tenants.

Mayor’s Comments – He does not believe we should be spending money for a separate lawyer to read the charter and tell everyone what it says. It’s obvious there are disagreements about certain pages, but not sure that a committee of commissioners couldn’t be formed with the town manager sitting in to review what was in question and if it had to be one page or section at a time, so be it. Also, changes can be thought of. He said he did not know how much a lawyer would charge and asked Solicitor Griffiths if he knew. Solicitor Griffiths thought it was necessary as there were questions as to what “from time to time” meant and how to define a “policy” versus a “directive.” He said he was willing to donate a month (or two) of salary because it is now October and the same issues are being fought about. It is important and council should not take cost into account. Commissioner MacDonald agreed and in previous meetings, a few people mentioned “violation of charter” and that was concerning to her. Solicitor Griffiths said it is the law and if the charter is not followed, the town is breaking the law. The person

would give a presentation. Commissioner Capriglione would prefer a workshop as opposed to a report because the report could be misinterpreted. He commented that he has been silent for three meetings because he was not really sure and there is no guidance. He said that he did not want to step on the police chief or city manager as that was not his purpose, but to speak on things like the parking at Richey School. Solicitor Griffiths said that he is pulled in different directions and having a neutral party doing it was a good idea. Commissioner MacDonald said that she has been upset about everything that has been going on for the past several months and has been looking at other charters from different towns because in any business when you bring in new staff you train them and most at the table are new. As the former mayor was tenured as is the town manager, council relied on their guidance to know what was an ordinance or resolution. Being a commissioner is a learning process. She will ask questions on what is presented. Mayor Walker's concern is he wants to hear this other person's interpretation and doesn't want his or the town manager's interpretations get in the way and that is why Town Manager King wanted a neutral party because she said she will never agree on what mayor and council have been doing. Commissioner Capriglione made a motion to hire independent counsel to offer a clear, unbiased legal opinion of the charter and thanked the solicitor for offering up his salary to cover the cost. Commissioner MacDonald seconded. All ayes.

Public Comment – None

New Business – Personnel policy regarding benefits, only one employee has family benefits. Mayor walker does not believe the town should be offering family medical coverage for any new employee or any current employee who changes from single to family. Commissioner Capriglione believes it is not fair and how fortunate he felt to have his children covered on his medical plan. There should be sort of formula developed. Mayor Walker was concerned what if all single coverage employees were to change their status, where would the town get the additional \$170,000. He has been looking at these numbers for months and it has been concerning. Commissioner MacDonald said that more research needs to be done on this and no decision should be made tonight. She started looking at different levels of benefits and the employee contribution which was just increased two years ago from 15% to 20%. We should be looking at industry standard. Commissioner Capriglione believed it would hurt recruitment going forward. Mayor Walker said that budget is coming up and he sees the point and had good insurance with the city of Wilmington. The commissioners have an obligation to be concerned about salary and benefits and where is the money coming from. Commissioner Capriglione asked about the ARPA premium pay and if it covered benefits. Town Manager King said she intended to present premium pay to council for approval since it had been stated to her not to look for raises for the employees and council could do the right thing and approve it. Mayor Walker tended to agree and it does not come out of the town's checkbook. He is super impressed with maintenance and will continue to sing their praises and the police are doing so much more and are getting compliments from people in all over town and they are being seen and the residents feel they are being protected. Commissioner Capriglione reminded council that pension is based on the last three years of salary and he is aware of other places who are incorporating this premium pay into salaries so it goes toward the pension. This premium pay would not be run through payroll as it is coming from a separate source. He was concerned that not getting a pay raise and getting a bonus instead may impact the officers negatively. Mayor Walker wanted to clarify that no one said they weren't giving raises. Town Manager King and Commissioner MacDonald both said he said that, but he was only one vote and did not see how the town could

possibly give raises. Chief Wohner advised that the state police just came out with their new contract and a starting trooper is going to be making over \$70,000 a year. The municipalities are up in arms about it and it is rumored that the League of Local Government is going to Dover to ask for a moratorium because the municipalities cannot match that and also the County is telling their officers that if they want state money to go to the state because the county cannot match it. They may also go to the state to create grants that will offset the difference so officers can get higher salary without municipal impact. Council should be getting involved with DLLG.

There were separate conversations about the remainder of the agenda and questions about the employee in the military. The employee who is in the Air Force Reserves approached Town Manager King about an incentive to discontinue medical benefits and in exchange, would like to have his two weeks' training as paid time off. Mayor Walker said that should policy changes be made for one person? Chief Wohner asked how the time off would be classified - sick? vacation? Can it be carried over if all that time is not used? If an employee not in the military opted out of healthcare, would they be eligible for that time as well? Policy is supposed to be fair for all. General consensus is to leave it alone and go by Town Manager's recommendation. There was a time when there were employees who received a small stipend because they did not receive benefits, but now all the employees take the benefits. Mayor Walker restated the intentions that family benefits were to stay intact for the time being and that the policy would not change regarding paid military leave in lieu of medical benefits. Commissioner Capriglione said he did not feel comfortable even deciding that. Mayor Walker said that the item referring to the town manager would be tabled until the charter responsibilities were worked out.

Commissioner Capriglione asked about the money in the CIBA Foundation grant. What was the town going to do with the money and should we return? CIBA is no longer CIBA and the involved parties are no longer employed by BASF. Solicitor Griffiths will look into if the town can put this money into our general operating budget.

Mayor Walker made a motion to adjourn. Commissioner Capriglione seconded.

Meeting adjourned at 9:05 pm.

*For clarification, Officer Bell did not make *\$83,000. His base salary was \$56,555 and with benefits (medical/dental/vision/disability insurance/worker's comp), his "cost" to the town was \$74,927.